

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6288

BILL NUMBER: SB 114

NOTE PREPARED: Feb 21, 2006

BILL AMENDED: Feb 16, 2006

SUBJECT: Probate and Trust Matters.

FIRST AUTHOR: Sen. Zakas

FIRST SPONSOR: Rep. Foley

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL
DEDICATED
FEDERAL**

IMPACT: No Fiscal Impact

Summary of Legislation: (Amended) *Surviving Spouse Allowance:* The bill provides that a surviving subsequent childless spouse who takes against the will of the decedent is entitled to take one-third of the net personal estate and an additional amount equal to 25% of the fair market value of the decedent's real property minus liens and encumbrances. (Current law bases the additional amount on the value of the decedent's lands.) It also makes conforming changes to the intestate succession law.

Unsupervised Estates: The bill specifies additional powers that a personal representative may exercise without order of the court in the administration of an unsupervised estate.

Uniform Principal and Income Act: The bill provides that income earned by a trust becomes a part of the principal and is not distributed to the beneficiaries of specific property. It removes references to estates to conform Indiana's version of the Uniform Principal and Income Act with current probate law.

Trustee Powers: The bill specifies that a trustee may exercise a power that conflicts with an individual interest of the trustee if the trustee receives written authorization from all interested persons to exercise the power or if the exercise of the power is specifically authorized by the terms of the trust. (Current law permits the exercise of the power only with court authorization.)

Small Estates: Provides that a claimant seeking payment of a debt owed to a decedent or seeking to obtain personal property or an instrument evidencing a debt, an obligation, a stock, or a chose in action belonging to the decedent must include in the affidavit that the claimant submits to the debtor or person possessing the personal property or instrument: (1) the name and address of each other person entitled to a share of the

property; (2) a statement that the claimant has notified each other person identified in the affidavit of the claimant's intention to present the affidavit; and (3) that the value of the gross probate estate does not exceed \$50,000.

(The introduced version of this bill was prepared by the Probate Code Study Commission.)

Effective Date: July 1, 2005 (retroactive); July 1, 2006.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected:

Information Sources:

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